

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FT. WORTH DIVISION**

SHELLIE DURRETT AND MARK DURRETT,
PLAINTIFFS,

v.

GOLDEN WHEEL LOGISTICS, INC., AND
ZHONG XU,
DEFENDANTS.

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CIVIL ACTION NO. _____

INDEX OF STATE COURT FILE

The following is an index identifying each state court document and the date in which each document was filed in the 91st District Court, Eastland County, Texas.

Exhibit	Date	Document
3		State Court File
3a	4/19/22	Docket Sheet
3b	3/1/22	Plaintiffs' Original Petition
3c	3/4/22	Service Return for Golden Wheel Logistics, Inc.
3d	3/4/22	Service Return for Zhong Xu

3a

CASE # CV2246281

COURT: 91ST JUDICIAL DISTRICT

04/19/2022

CAUSE: INJURY OR DAMAGE WITH MV

STYLE: DURRETT, SHELLIE

VS GOLDEN WHEEL LOGISTICS, INC.

PLAINTIFF

NAMEATTORNEY

DURRETT, MARK

P

BROWNE, SPENCER

8222 DOUGLAS AVE., STE. 400

DALLAS, TX 75225

214-526-7900

DURRETT, SHELLIE

P

BROWNE, SPENCER

8222 DOUGLAS AVE., STE. 400

DALLAS, TX 75225

214-526-7900

DEFENDANT

NAMEATTORNEY

GOLDEN WHEEL LOGISTICS, INC. D

C/O TEXAS SECRETARY OF STATE

1019 BRAZOS, ROOM 105

AUSTIN, TX 78701

XU, ZHONG

D

C/O CHAIRMAN OF THE TEXAS TRAN

125 E. 11TH STREET

AUSTIN, TX 78701

TRANSACTIONS FOR ALL PARTIES

/ / THRU / /

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3b

CV2246281
CAUSE NO. _____

SHELLIE DURRETT AND
MARK DURRETT

v.

GOLDEN WHEEL LOGISTICS, INC.
AND ZHONG XU

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§

IN THE DISTRICT COURT

_____ JUDICIAL DISTRICT

EASTLAND COUNTY, TEXAS

PLAINTIFFS' ORIGINAL PETITION

Plaintiffs Shellie Durrett and Mark Durrett ("Plaintiffs") file this Original Petition complaining of Defendants Golden Wheel Logistics, Inc. and Zhong Xu ("Defendants") and for cause of action state the following:

DISCOVERY CONTROL PLAN

1. Pursuant to Rules 190.1 and 190.3 of the Texas Rules of Civil Procedure, Plaintiffs state that discovery in this cause is intended to be conducted under Level 3.

JURY DEMAND

2. Pursuant to Rules 216 and 217 of the Texas Rules of Civil Procedure, Plaintiffs requests a jury trial of this matter. Accordingly, Plaintiffs tender the proper jury fee with the filing of Plaintiffs' Original Petition.

PARTIES

3. Plaintiff Shellie Durrett is an individual residing in Wise County, Texas. The last three digits of her driver's license are 473 and the last three digits of her social security number are 322.
4. Plaintiff Mark Durrett is an individual residing in Wise County, Texas. The last three digits of his social security number are 763.

5. Defendant Golden Wheel Logistics, Inc. is a non-resident foreign entity that is doing business in the State of Texas; a current search of records from the Texas Secretary of State (a) does not reveal the correct corporate entity name, (b) does not reflect a regular place of business in Texas, and (c) does not designate an agent for service of process. This non-resident entity is doing business in the State of Texas, therefore pursuant to CPRC § 17.044 service of process may be accomplished by service on the **Secretary of State, Citations Unit, 1019 Brazos, Room 105, Austin, Travis County, 78701** who will accomplish service upon Defendant Golden Wheel Logistics, Inc. by mailing a copy of the citation and petition to the defendant by registered mail or certified mail return receipt requested to its registered agent Yuxing Zeng at 5125 Schaefer Avenue, Suite 102, Chino, California 91710.
6. Defendant Zhong Xu is a non-resident. A current search of records indicates that he resides at 4763 Elsanore Circle, Norcross, CA 30071 and may be served by delivering a copy of the citation directed to Defendant and this petition, by and through his substituted agent for service of process, J. Bruce Bugg, Jr., Chairman, Texas Transportation Commission, 125 E. 11th Street, Austin, Texas, 78701, pursuant to §17.062.

VENUE AND JURISDICTION

7. Venue is proper in this Court by virtue of Tex. Civ. Prac. & Rem. Code §15.002(a). Furthermore, this Court has jurisdiction in that the damages being sought are within the jurisdictional limits of this Court.

FACTS

8. This lawsuit is based on a motor vehicular collision occurring on or about March 21, 2020, at or on IH-20 near Ranch Road 2461, Ranger, Texas (hereinafter referred to as "The

Collision").

9. The Collision was proximately caused by the negligence and / or negligence *per se* of Defendants. Such acts of negligence are more defined in the below paragraphs.
10. At the time of The Collision, Defendant Zhong Xu was working in the course and scope of his employment for Golden Wheel Logistics, Inc.
11. At the time of The Collision, Defendant Zhong Xu was driving at an unsafe speed and lost control of his vehicle. He impacted the center median which led to debris hitting the Plaintiffs' vehicle that was traveling in the opposite direction. This crash severely injured the Plaintiffs.

CAUSES OF ACTION

Negligence, Negligence *Per Se*, and/or Respondeat Superior

12. At the time of The Collision, Defendant Zhong Xu was negligent and / or negligent *per se* in one or more of the following particulars:
 - a. In failing to keep such a lookout as a person of ordinary prudence would have kept under the same or similar circumstances;
 - b. In failing to timely apply the brakes of his vehicle in order to avoid the collision in question;
 - c. In driving a vehicle at a rate of speed which was greater than that which an ordinarily prudent person would have driven under the same or similar circumstances;
 - d. In failing to yield the right-of-way;
 - e. In failing to maintain his vehicle under control;
 - f. In following too closely;
 - g. In disregarding traffic signals;
 - h. In failing to take proper evasive action;
 - i. In driving while inattentive;
 - j. In driving while looking at his cell phone, texting, emailing, or otherwise using a cellular device which diverted his attention from the road in front of him; and
 - k. In violating Texas Transportation Code Sections 545.051 (driving on right side of roadway), 545.351 (maximum speed requirement), and 545.4251 (use of portable wireless communication device for electronic messaging).
13. At the time of the collision, Defendant Zhong Xu, the driver of Defendant Golden Wheel

Logistics, Inc.'s vehicle, was an employee of Defendant Golden Wheel Logistics, Inc. Defendant Zhong Xu was acting within the course and scope of such employment at the time of the occurrence and at all relevant times prior thereto. As such, Defendant Golden Wheel Logistics, Inc. is legally responsible for its driver's negligence and negligence *per se* under the doctrine of respondeat superior / vicarious liability.

14. Defendant Golden Wheel Logistics, Inc. was negligent in hiring Defendant Zhong Xu as a driver and negligent in allowing him to continue driving vehicles for it when they reasonably should have known that it was unsafe to do so. It was also negligent in its training of Defendant Zhong Xu. Such training would have prevented the occurrence in question. Additionally, it was negligent in its safety teaching, collision prevention, and the operation of its company vehicle system. Such negligence, singularity or in combination with others, proximately caused The Collision.
15. Each of the foregoing acts or omissions, singularly or in combination with others, constituted negligence and / or negligence *per se*, which proximately caused The Collision and Plaintiffs' injuries and damages.

PERSONAL INJURIES AND DAMAGES

16. As a result of Defendants' negligent actions, Shellie Durrett suffered personal injuries. Consequently, Shellie Durrett seeks recovery of the following damages:
 - a. Medical Expenses: Shellie Durrett incurred bodily injuries which were caused by The Collision and Shellie Durrett incurred medical expenses for treatment of such injuries. Shellie Durrett believes that, in reasonable medical probability such injuries will require the need for future medical care.
 - b. Physical Pain: Shellie Durrett endured physical pain as a result of the personal injuries sustained in The Collision and reasonably anticipates such pain will continue in the future.
 - c. Mental Anguish: Shellie Durrett endured mental anguish as a result of the personal

injuries sustained in The Collision and reasonably anticipates such mental anguish will continue in the future.

- d. Disfigurement: Shellie Durrett endured disfigurement as a result of the personal injuries sustained in The Collision and reasonably anticipates such will continue in the future.
- e. Impairment: Shellie Durrett endured physical impairment as a result of the personal injuries sustained in The Collision and reasonably anticipates such in the future.
- f. Loss of Earning Capacity: Shellie Durrett lost wages as a result of the personal injuries sustained in The Collision. Shellie Durrett reasonably believes that such injuries will diminish Shellie Durrett's earning capacity in the future.

As a result of Defendants' negligent actions, Mark Durrett suffered personal injuries.

Consequently, Mark Durrett seeks recovery of the following damages:

- a. Medical Expenses: Mark Durrett incurred bodily injuries which were caused by The Collision and Mark Durrett incurred medical expenses for treatment of such injuries. Mark Durrett believes that, in reasonable medical probability such injuries will require the need for future medical care.
- b. Physical Pain: Mark Durrett endured physical pain as a result of the personal injuries sustained in The Collision and reasonably anticipates such pain will continue in the future.
- c. Mental Anguish: Mark Durrett endured mental anguish as a result of the personal injuries sustained in The Collision and reasonably anticipates such mental anguish will continue in the future.
- d. Disfigurement: Mark Durrett endured disfigurement as a result of the personal injuries sustained in The Collision and reasonably anticipates such will continue in the future.
- e. Impairment: Mark Durrett endured physical impairment as a result of the personal injuries sustained in The Collision and reasonably anticipates such in the future.
- f. Loss of Earning Capacity: Mark Durrett lost wages as a result of the personal injuries sustained in The Collision. Mark Durrett reasonably believes that such injuries will diminish Mark Durrett's earning capacity in the future.

AGGRAVATION

17. In the alternative, if it be shown that the Plaintiffs suffered from any pre-existing injury,

disease and/or condition at the time of the incident made the basis of the lawsuit, then such injury, disease and/or condition was aggravated and/or exacerbated by the negligence of the Defendants.

PROPERTY DAMAGE

18. As a proximate result of the above-detailed conduct on the part of the Defendants, the vehicle Plaintiffs were in at the time of the collision was damaged in an amount in excess of the jurisdictional limits of this Court, for which the Defendants are hereby sued and recovery is sought.

U.S. LIFE TABLES

19. Notice is hereby given to the Defendants that Plaintiffs intend to use the U. S. Life Tables as published by the Department of Health and Human Services - National Vital Statistics Report in the trial of this matter. Plaintiffs request that this Honorable Court take judicial notice of those rules, regulations, and statutes of the United States and the State of Texas, pursuant to Texas Rule of Evidence 201 and 1005.

RELIEF SOUGHT

20. Pursuant to Texas Rules of Civil Procedure 193.7, notice is hereby given of the intention to use any of the documents exchanged and/or produced between any party during the trial of this case. All conditions precedent to Plaintiffs' right to recover the relief sought herein have occurred or have been performed.
21. As required by Rule 47(b), Texas Rules of Civil Procedure, Plaintiffs state that the damages sought are in an amount within the jurisdictional limits of this Court. As required by Rule 47(c), Texas Rules of Civil Procedure, Plaintiffs state that Plaintiffs seeks monetary relief in excess of in excess of \$1,000,000. As discovery takes place and testimony is given,

Plaintiffs will be in a better position to give the maximum amount of damages sought.

22. Plaintiffs request that Defendants be cited to appear and answer, and that this case be tried after which Plaintiffs recover:

- a. Judgment against Defendants for a sum within the jurisdictional limits of this Court for the damages set forth herein;
- b. Pre-judgment interest at the maximum amount allowed by law;
- c. Post-judgment interest at the maximum rate allowed by law;
- d. Costs of suit; and
- e. Such other and further relief to which Plaintiffs may be justly entitled.

Respectfully submitted,

REYES | BROWNE | REILLEY

/s/ Spencer P. Browne

Spencer P. Browne

State Bar No. 24040589

Hussain Ismail

State Bar No. 24087782

8222 Douglas Avenue, Suite 400

Dallas, TX 75225

(214) 526-7900

(214) 526-7910 (FAX)

spencer@reyeslaw.com

hussain@reyeslaw.com

ATTORNEYS FOR PLAINTIFFS

3c

AFFIDAVIT OF SERVICE

State of Texas

County of EASTLAND

91st District Court

Case Number: CV2246281

Plaintiff:

SHELLIE DURRETT AND MARK DURRETT

vs.

Defendant:

GOLDEN WHEEL LOGISTICS, INC. AND ZHONG XU

For:

Spencer P. Browne
 REYES BROWNE
 8222 Douglas Ave.
 Suite 400
 Dallas, TX 75225

Received by Dane Ray Cuppett on the 2nd day of March, 2022 at 11:56 am to be served on **GOLDEN WHEEL LOGISTICS BY DELIVERING THROUGH THE TEXAS SECRETARY OF STATE, 1019 BRAZOS, ROOM 105, AUSTIN, TRAVIS County, TX 78701.**

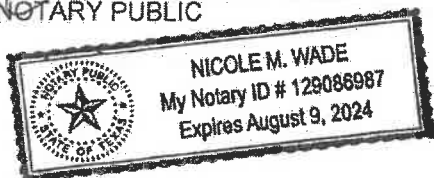
I, Dane Ray Cuppett, being duly sworn, depose and say that on the **2nd day of March, 2022 at 2:51 pm, I:**

executed to the **SECRETARY OF STATE** by delivering in duplicate a true copy of the **CITATION AND PLAINTIFF'S ORIGINAL PETITION** with the date of delivery endorsed thereon by me, to: **Aleita Dawson at 1019 BRAZOS, ROOM 105, AUSTIN, TRAVIS County, TX 78701**, as the designated agent for the Texas Secretary of State to accept delivery of process on behalf of **GOLDEN WHEEL LOGISTICS**. An administrative fee of \$55.00 was also tendered.

I certify that I am over the age of 18, have no interest in the above action, and am a certified process server, in good standing, in the judicial circuit in which the foregoing occurred. The facts in this affidavit are within my personal knowledge and true and correct.

Subscribed and sworn to before me on the 2nd
 day of March, 2022 by the affiant
 who is personally known to me.

NOTARY PUBLIC



Dane Ray Cuppett
 PSC-7114, Exp. 10/31/23

Date

3/02/2022

Alliance Civil Process, Inc.
 136 W. McLeroy Blvd.
 Suite A
 Saginaw, TX 76179
 (817) 306-4150

Our Job Serial Number: FWT-2022000512
 Ref: 20060185314

Filed 3/4/2022 12:24 PM
 Tessa Culverhouse
 District Clerk

Eastland County, Texas

Reviewed By: Wendy McDade

Accepted Date: 3/8/2022 11:07 AM

CITATION-GENERAL - CITATION GENERAL.DOC

CITATION**THE STATE OF TEXAS****To: GOLDEN WHEEL LOGISTICS, INC., C/O TEXAS SECRETARY OF STATE, 1019 BRAZOS, ROOM 105, AUSTIN, TX 78701**Defendant **GOLDEN WHEEL LOGISTICS, INC.**, in the hereinafter styled and numbered cause: **CV2246281**

You are hereby commanded to appear before the 91st District Court of Eastland County, Texas, to be held at the courthouse of said County in the City of Eastland, Texas, by filing a written answer to the **PLAINTIFF'S ORIGINAL PETITION** of petitioner at or before 10 o'clock A.M. of the Monday next after the expiration of 20 days after the date of service hereof, a copy of which accompanies this citation, in cause number **CV2246281**, styled,

DURRETT, SHELLIE, Petitioner,

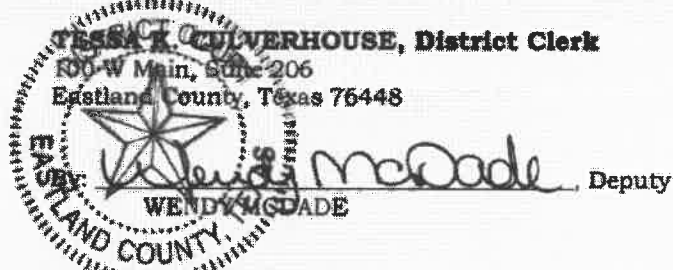
VS.

GOLDEN WHEEL LOGISTICS, INC., Respondent,filed to said court on the **1st of March, 2022**.

The name and address of the attorney for petitioner is: **SPENCER BROWNE, 8222 DOUGLAS AVE., STE. 400, DALLAS, TX 75225**

NOTICE TO RESPONDENT: You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more on TexasLawHelp.org.

Issued and given under my hand and seal of said court at office, this **March 2nd, 2022**.

**OFFICER/AUTHORIZED PERSON RETURN**

Came to hand at _____ o'clock _____ M., on the _____ day of _____, 2022. Executed at (address) _____ in _____ County at _____ o'clock _____ M., on the _____ day of _____, 2022, by delivering to **GOLDEN WHEEL LOGISTICS, INC.**, defendant, in person, a true copy of this Citation together with the accompanying copy(ies) of the Petition attached thereto and I endorsed on said copy of the Citation the date of delivery. To certify which I affix my hand officially this _____ day of _____, 2022.

FEE: \$ _____

By _____ Deputy

Affiant

On this day, _____ known to me to be the person whose signature appears on the foregoing return, personally appeared. After being by me duly sworn, he/she stated that this citation was executed by him/her in the exact manner recited on the return.

SWORN TO AND SUBSCRIBED BEFORE ME on _____, 2022.

Notary Public

3d

State of Texas

County of EASTLAND

91st District Court

Case Number: CV2246281

Plaintiff:

SHELLIE DURRETT AND MARK DURRETT

vs.

Defendant:

GOLDEN WHEEL LOGISTICS, INC. AND ZHONG XU

For:

Spencer P. Browne
REYES BROWNE
8222 Douglas Ave.
Suite 400
Dallas, TX 75225

Received by Dane Ray Cuppett on the 2nd day of March, 2022 at 12:00 pm to be served on ZHONG XU BY DELIVERING THROUGH THE TEXAS TRANSPORTATION COMMISSION, 125 E. 11TH ST, AUSTN, TRAVIS County, TX 78701.

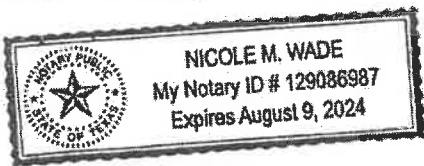
I, Dane Ray Cuppett, being duly sworn, depose and say that on the 2nd day of March, 2022 at 2:57 pm, I:

served the TRANSPORTATION COMMISSION by delivering in duplicate a true copy of the CITATION AND PLAINTIFF'S ORIGINAL PETITION with the date of service endorsed thereon by me, to: Jenna Townsend at 125 E. 11TH ST, AUSTN, TRAVIS County, TX 78701, as the designated agent for the Texas Transportation Commission to accept service of process on behalf of ZHONG XU. An administrative fee of \$25.00 was also tendered.

I certify that I am over the age of 18, have no interest in the above action, and am a certified process server, in good standing, in the judicial circuit in which the foregoing occurred. The facts in this affidavit are within my personal knowledge and true and correct.

Subscribed and sworn to before me on the 2nd
day of March, 2022 by the affiant
who is personally known to me.

NOTARY PUBLIC



Dane Ray Cuppett
PSC-7114, Exp. 10/31/23

3/02/2022
Date

Alliance Civil Process, Inc.
136 W. McLeroy Blvd.
Suite A
Saginaw, TX 76179
(817) 306-4150

Our Job Serial Number: FWT-2022000513
Ref: 20060185314

Filed 3/4/2022 12:21 PM
Tessa Culverhouse
District Clerk

Eastland County, Texas

Reviewed By: Wendy McDade

Accepted Date: 3/8/2022 11:07 AM

CITATION-GENERAL - CITATION GENERAL DOC

CITATION

THE STATE OF TEXAS

To: **XU,ZHONG, C/O BRUCE BUGG, JR., CHAIRMAN OF THE TEXAS TRANSPORTATION COMMISSION, 125 E. 11TH STREET, AUSTIN, TX 78701**

Defendant **XU,ZHONG, C/O BRUCE BUGG, JR., CHAIRMAN OF THE TEXAS TRANSPORTATION COMMISSION, 125 E. 11TH STREET, AUSTIN, TEXAS 78701** in the hereinafter styled and numbered cause: **CV2246281**

You are hereby commanded to appear before the 91st District Court of Eastland County, Texas, to be held at the courthouse of said County in the City of Eastland, Texas, by filing a written answer to the **PLAINTIFF'S ORIGINAL PETITION** of petitioner at or before 10 o'clock A.M. of the Monday next after the expiration of 20 days after the date of service hereof, a copy of which accompanies this citation, in cause number **CV2246281**, styled,

DURRETT, SHELLIE, Petitioner,
VS.

XU,ZHONG, Respondent,
filed to said court on the **1st of March, 2022**.

The name and address of the attorney for petitioner is: **SPENCER BROWNE, 8222 DOUGLAS AVE., STE. 400, DALLAS, TX 75225**

NOTICE TO RESPONDENT: You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more on TexasLawHelp.org.

Issued and given under my hand and seal of said court at office, this **March 2nd, 2022**.

TESSA K. CULVERHOUSE, District Clerk

100 W. Main, Suite 206
Eastland County, Texas 76448

By: 

WENDY MCADADE

Deputy

OFFICER/AUTHORIZED PERSON RETURN

Came to hand at _____ o'clock _____ M., on the _____ day of _____, 2022. Executed at (address) _____ in _____ County at _____ o'clock _____ M., on the _____ day of _____, 2022, by delivering to **XU,ZHONG**, defendant, in person, a true copy of this Citation together with the accompanying copy(ies) of the Petition attached thereto and I endorsed on said copy of the Citation the date of delivery. To certify which I affix my hand officially this _____ day of _____, 2022.

FEE: \$ _____

By _____ Deputy

Affiant

On this day, _____ known to me to be the person whose signature appears on the foregoing return, personally appeared. After being by me duly sworn, he/she stated that this citation was executed by him/her in the exact manner recited on the return.

SWORN TO AND SUBSCRIBED BEFORE ME on _____, 2022.

Notary Public